

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

RIGOBERTO RUIZ,

Plaintiff,

Case No. 21CV387

v.

CONAGRA FOODS PACKAGED FOODS, LLC

Defendant.

AMENDED COMPLAINT

**FIRST CAUSE OF ACTION
WRONGFUL DEATH**

COMES NOW, Plaintiff Rigoberto Ruiz, by his attorneys, Douglas J. Phebus and Victor M. Arellano of Arellano & Phebus, S.C, and complains of the defendant pursuant to the Wisconsin Wrongful Death Act, and avers:

1. Plaintiff Rigoberto Ruiz is an adult resident of Rock County Wisconsin who resides at 1506 Copeland Avenue, Beloit, WI 53511.
2. Rigoberto Ruiz was married to Martha Amador De Ruiz until her death on May 5, 2020 as a result of Covid-19.
3. Defendant Conagra Foods Packaged Foods, LLC is a Nebraska Corporation licensed to do business in Wisconsin.
4. Defendant owns and operates a food packaging plant in Darien, Wisconsin.
5. Rigoberto Ruiz was employed at the Defendant's plant in Darien, Wisconsin when the Covid-19 virus began infecting Americans in 2020. He was continuously employed at the Darien plant from June 1995 until his Covid-19 diagnosis on April

22, 2020.

6. Defendant failed to exercise ordinary care in its Darien facility which resulted in over 100 of its workers at the plant testing positive in April 2020.
7. Defendant temporarily close its Darien plant on April 19, 2020. Plaintiff Rigoberto Ruiz was infected in the April outbreak at the Darien plant. Rigoberto Ruiz tested positive for Covid-19 on April 22, 2020. The acts complained of herein all occurred prior to Rigoberto Ruiz's diagnosis on April 22, 2020.
8. Conagra Foods Packaged Foods, LLC was aware that one of its employees had tested positive at the Darien plant at least as early as April 13, 2020. It was aware that many of its employees were exhibiting Covid-19 symptoms prior to April 13, 2020.
9. In April 2020, Conagra Foods Packaged Foods, LLC. requested that employees who were exhibiting Covid-19 symptoms continue to work on the line in the Darien plant for profit-based productivity reasons. This course of conduct was negligent towards the health and safety of its workers and their families.
10. Many of the workers in the Darien plant in April of 2020 are workers who live in housing provided by Conagra Foods Packaged Foods, LLC. During the month of April 2020 those workers were housed in conditions where their beds were within six feet of each other, and the housing facilities did not provide sufficient space to allow for the workers to properly socially distance. These workers were exposed to these unsafe conditions and then allowed to come into the plant and expose co-workers to the dangers created by those unsafe conditions. This course of conduct by Conagra Foods Packaged Foods, LLC. was negligent in that ignored both the Wisconsin

Governor's emergency orders as well as generally accepted safe practices at that time. This course of conduct was negligent towards the health and safety of its workers and their families.

11. In April 2020 Defendant Conagra Foods Packaged Foods, LLC failed to:

- A. Establish a contact tracing system;
- B. Train its workers regarding Covid-19 safety;
- C. Properly distance its employees within the plant to minimize risk;
- D. Require and enforce the proper wearing of masks within the plant.

All of these failures were negligent as to its workers' and their families.

12. As a result of the many acts of negligence identified in paragraphs 9-11 above, an outbreak occurred at the Darien plant which caused Rigoberto Ruiz to be infected with Covid-19. As Defendant is an employer it is subject to the Wisconsin Safe Place Act, Wisconsin Statutes §101.11 pursuant to which it has a duty to make the premises as safe as the nature of its business would reasonably permit.

13. Rigoberto Ruiz then brought the Covid-19 virus home from the Conagra plant and infected his wife Martha Amador De Ruiz. Pursuant to Wisconsin law Rigoberto Ruiz alleges that the preponderance of the possibilities establish both his own and his wife's causal link between his employment and their Covid-19 diagnosis.

14. Martha Amador De Ruiz suffered greatly from the Covid-19 virus until it ultimately caused her death on May 5, 2020. As Defendant violated both its common law duties and its duty under the Safe Place Act, Plaintiff brings this case under both common law negligence claims and Wisconsin Safe Place Act claims.

WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- A. For fair and reasonable compensation for wrongful death of Martha Amador De Ruiz;
- B. Funeral and burial expenses;
- C. For costs and disbursements in this action;
- D. For attorney's fees;
- E. And for whatever relief the court may deem just and equitable.

**SECOND CAUSE OF ACTION
SURVIVAL ACTION**

COMES NOW, Plaintiff Rigoberto Ruiz, by his attorneys, Douglas J. Phebus and Victor M. Arellano of Arellano & Phebus, S.C, and complains of the defendant pursuant to the Wisconsin Survival Act, and avers:

1-14. Plaintiff hereby realleges and incorporates by reference paragraphs 1- 14 of the complaint.

A. As a direct, natural and proximate result of said negligence and violation of the Wisconsin Safe Place Act by Defendant, Martha Amador De Ruiz, suffered personal injuries, causing great pain and suffering of both in mind and body prior to her death.

WHEREFORE, Plaintiff, demands judgment against Defendant as follows:

- A. For fair and reasonable compensation for the injuries and damages suffered by Martha Amador De Ruiz prior to her death;
- B. For costs and disbursements in this action;
- C. For attorney's fees;
- D. And for whatever relief the court may deem just and equitable.

Dated this 21st day of April, 2021.

ARELLANO & PHEBUS, S.C.
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